

**GENERAL ORDER 01-11**

**IT IS HEREBY ORDERED** that by a majority vote of the Circuit Judges of the Sixteenth Judicial Circuit, the attached Civil Proceedings, Articles 6, 7 and 9 and Amended Article 11 is adopted in and for Kane County.

**IT IS FURTHER ORDERED** that these rules may be adopted by DeKalb and Kendall Counties upon the written order of the Presiding Judge of that County.

**ENTER** this 20 day of June, 2001.

  
Grant S. Wegner  
Chief Judge

FILED \_\_\_\_\_  
ENTERED 42  
2001 JUN 20 P 2: 22  
REGISTRAR SEYLER  
CIRCUIT COURT CLERK  
KANE COUNTY, IL

## II. CIVIL PROCEEDINGS

### ARTICLE 6: PLEADINGS, MOTIONS, AND CONFERENCES

#### 6.01 CASE MANAGEMENT AND SETTLEMENT CONFERENCES

- (a) Case Management Conference
- (i) In all cases designated L, LM (\$30,000 to \$50,000), CH, MR, TX, MC, and ED the Clerk of the Court shall, on the date of filing, assign an automatic case management conference date on the call of the judge assigned the case within 120 days from the date of filing. The Clerk shall affix notice of said date to the original pleading and to copies of said pleading to be served on the opposing party.
  - (ii) In the event an automatic case management conference falls on a date when the Court is not in session, the case will be set for the next court date.
  - (iii) Failure of the parties or their counsel to appear on an automatic case management conference date may result in dismissal for want of prosecution, default and/or other sanctions.
  - (iv) In all cases subject to the *Supreme Court Rules*, the attorneys for the parties with responsibility for trial of the case shall, prior to the automatic case management conference and each conference thereafter, confer regarding matters set forth in the *Supreme Court Rules*.
  - (v) Failure to comply with the *Supreme Court Rules*, local rules or court orders pertaining to case management may result in sanctions being imposed against a party and/or attorney.
- (b) Settlement Conference

In the event a settlement conference is held, the attorney for the plaintiff shall prepare a pretrial memorandum substantially in

the form set forth in the appendix of forms and shall deliver a copy to the judge and to counsel of record at the time of the settlement conference. At the settlement conference the attorneys present shall:

- (i) be familiar with the case; and
- (ii) be authorized to act in furtherance of the settlement conference; and
- (iii) have ascertained in advance the extent of authority given by their client to act in furtherance of settlement.

#### **6.02 CLERK'S NOTICE: DISMISSAL FOR WANT OF PROSECUTION.**

Within ten (10) days of the entry of an order of dismissal for want of prosecution the Clerk of the Court shall, in deference to all pro se parties and all attorneys of record, send notice of the dismissal to the last known address indicated in the file by regular mail and place of record a certificate of mailing.

#### **6.03 DISMISSAL FOR LACK OF ACTIVITY.**

If a case assigned to the Civil Trial Division or the Chancery and Miscellaneous Division has no order entered for a period of nine (9) months and has no future date, the Clerk of the Court shall notify the attorneys of record together with any person who has filed an appearance and given an address that the case will be called on a date certain at which time it will be dismissed except for good cause shown.

#### **6.04 PLEADINGS TO BE READILY COMPREHENSIBLE.**

- (a) If a pleading contains multiple counts or affirmative defenses, each count or defense shall bear a concise title stating the theory of liability or defense. If the pleading is filed on behalf of or against multiple parties and all such parties are not asserting the same claims or defenses as to all opposing parties, the title of each count or defense shall also concisely designate the subgroup of parties to which it pertains.
- (b) If incorporation of facts by reference to another pleading or to another part of the same pleading permitted by *Supreme Court*

*Rule* will render a pleading not readily comprehensible, the facts shall be re-alleged verbatim.

- (c) Where necessary, the judge assigned the case may order consolidation of the pleadings into one finished comprehensible set.

## 6.05 MOTIONS GENERALLY

- (a) Every motion shall identify in its title or introductory paragraph the particular relief sought together with the section of the *Code of Civil Procedure* pursuant to which the motion is brought.
- (b) Pleading motions shall not be combined with fact motions except as permitted by the *Code of Civil Procedure*. Improperly combined motions may be stricken by the court without hearing.
- (c) No motion may be heard unless previously scheduled for hearing on the Court's calendar. This rule does not apply to genuine emergency motions.
- (d) The notice of hearing shall designate the judge to whom the motion will be presented, state the title and case number of the action, and set forth the date and time the motion will be presented and the courtroom in which it will be presented. A copy of the motion, any papers to be presented with the motion, and proof of service shall be served with the notice.
- (e) The following times of notice shall be observed:
  - (i) Notice by personal service shall be made by 4:00 p.m. at least two court days before the scheduled hearing.
  - (ii) Notice by mail shall be deposited in a U.S. Post Office at least five court days before the scheduled hearing.
  - (iii) Notice by fax shall be completed by 4:00 p.m. at least three court days before the scheduled hearing.
- (f) Service by fax will be effective only if at the presentation of the

motion the movant produces an affidavit setting forth the date and time of service, the telephone number to which the notice was transmitted, a statement that the receipt was confirmed, and an assertion that the *Supreme Court Rule* pertaining to fax service was followed. Fax notice and transmissions will not be considered valid or permitted where the opposing party/counsel does not have a fax machine.

- (g) The burden of calling for hearing/setting any motion previously filed is on the party making the motion.
- (h) Any motion not called for hearing/setting within 60 days from the date it was filed may be stricken without notice. Any motion not presented or supported by the moving party when called for hearing upon notice may be denied.

#### **6.06 PARTICULAR MOTIONS**

- (a) All case or claim dispositive motions, other than those arising during trial, will be filed and noticed for setting no later than 120 days before the designated trial date except by leave of court upon good cause shown.
- (b) All motions for leave to file counterclaims, actions over, contribution actions and third party complaints must be filed no later than 60 days before the designated trial date. No such filing will be construed to compel the court to continue the trial date or impair the Court's authority to sever such actions.

#### **6.07 CONTESTED MOTIONS**

- (a) Any motion which is opposed may be heard at the end of the Court's call or at such other time designated by the Court.
- (b) Any writing in support of or in opposition to a motion will be filed and served upon the opposing party.
- (c) No writing in support of or in opposition to a motion will exceed ten (10) pages in length except by prior leave of court.

#### **6.08 MOTIONS FOR SUBSTITUTION OF JUDGE**

- (a) Motions for substitution of a judge as a matter of right in civil cases will be filed with and heard by the judge to whom the case is assigned.

- (b) Motions for substitution of a judge as a matter of right must be filed not later than 60 days before the designated trial date except where the judge to whom the case was originally assigned is succeeded by another judge within 60 days of trial.
- (c) Motions for substitution of a judge for cause in civil cases will be filed with the judge to whom the case is assigned but transferred to the Presiding Judge of the Division or to the Chief Judge for assignment to another judge for the sole purpose of hearing the motion to substitute for cause.

#### 6.09 MOTIONS FOR CONSOLIDATION OF CASES

- (a) Motions for consolidation of cases will be brought on notice to all parties of record in all cases involved in the proposed consolidation.
- (b) If the cases proposed for consolidation are within the same Division of the Court, the motion will be presented to the judge to whom the oldest numbered case is assigned.
- (c) If cases proposed for consolidation are in different Divisions of the Court, the motion will be presented to the assigned judge in the Division being requested to receive the consolidated cases.
- (d) Unless good cause is shown, cases will be consolidated into the oldest case.

#### 6.10 EMERGENCY MOTIONS AND EMERGENCY RELIEF

- (a) If genuine emergency relief is required, application will be made to the assigned judge. If the assigned judge is unavailable, application will be made to any other judge assigned to the Division in which the case is filed. If no judge in the Division is available, then application will be made to the Chief Judge or to a judge designated by the Chief Judge.
- (b) Every complaint or petition brought during court hours requesting an ex parte order for the appointment of a receiver, temporary restraint, preliminary injunction, or any other emergency relief will be filed in the Office of the Circuit Clerk before application to the Court for the order.
- (c) Notice after Hearing. If an ex parte or emergency motion is

heard without prior notice, a copy of the order granting or denying the motion will be entered. The party presenting the motion will serve a copy of the order personally or by U.S. Mail upon all persons having an interest who have not yet been served with a summons and upon all parties of record not found by the Court to be in default. The party presenting the motion will file with the Clerk of the Court, within two days of hearing, proof of service of a copy of the order entered.

- (d) Counsel will use every reasonable effort to notify opposing counsel or parties unless otherwise provided by law.

## ARTICLE 7: DISCOVERY

### 7.00 GENERAL

- (a) The sequence of discovery will comply with Supreme Court Rule. The obligation to comply with and complete discovery will not depend on the opponent's compliance unless otherwise ordered by the Court.
- (b) All discovery will be completed no later than 60 days before the trial date unless otherwise authorized by the Court or agreed by counsel.

### 7.01 DISCOVERY DOCUMENTS

- (a) Depositions, interrogatories, document requests, responses thereto, and other discovery documents will not be filed with the Clerk of the Court except as permitted by (b) or (c) below or pursuant to Supreme Court Rule. Requests to admit and responses thereto may be filed.
- (b) Discovery documents may be filed as necessary in support of motions or as otherwise ordered by the Court.
- (c) Proof of Service of discovery and responses thereto may be filed with the Clerk of the Court and upon filing will be prima facie evidence that such documents were served or answered.

### 7.02 MOTIONS RELATING TO DISCOVERY

- (a) Motions to Compel compliance with discovery rules or orders will be scheduled to assure hearing prior to any date(s) that may be affected by said motion.

- (b) Motions requesting relief from discovery rules or orders will be scheduled to assure hearing prior to any date(s) that may be affected by said request.
- (c) Failure to bring timely motions may preclude relief.

### 7.03 PHYSICIAN AND EXPERT FEES

In the instance of a conflict concerning reasonable compensation of a physician required to attend a deposition pursuant to the *Supreme Court Rules* or concerning the reasonable fee of an expert witness subpoenaed to appear at trial pursuant to the *Code of Civil Procedure*, a petition seeking a ruling on the reasonableness and a response thereto will set forth under oath to the extent known the following:

- d) the ordinary charges of the physician or expert for services rendered in his or her daily profession;
- e) the usual and customary charges of physicians or experts (with similar credentials) in the area;
- f) the level of skill possessed by the physician or expert as well as the time and effort expended and to be expended in the matter at issue;
- g) the hardship, if any, of advancing the compensation or fee or of testifying prior to receiving the compensation or fee; and
- e) other relevant facts.

### ARTICLE 8: RESERVED

### ARTICLE 9: TRIAL PRACTICE

9.00 [RESERVED]

### 9.01 JURY SELECTION

- (a) Statement of the Nature of the Case: In all civil jury cases, the plaintiff's attorney will prepare and submit to the Court and to each opposing party a Statement of the Nature of the Case for

use at voir dire. The statement will include the time, date and location of the alleged transaction or occurrence giving rise to the lawsuit; a brief description of the alleged transaction or occurrence; the name and city of residence (or business) of each of the parties involved and of their attorneys; and a list of the names and residence communities of witnesses whom the parties expect to call. Opposing counsel may suggest amendments to the statement.

- (b) Voir dire examination of prospective jurors will be pursuant to *Supreme Court Rule*.

## 9.02

### STIPULATIONS

Proposed stipulations for use at trial will be in writing, signed by the parties or their attorneys and filed in the cause unless the Court directs otherwise.

AMENDED

**ARTICLE 11: MANDATORY ARBITRATION**

The mandatory arbitration program in the Circuit Court for the Sixteenth Judicial Circuit Kane County, Illinois is governed by Supreme Court Rules 86-95 for the conduct for Mandatory Arbitration Proceedings. Pursuant to Supreme Court Rule 86(c), the circuit judges of the Sixteenth Judicial Circuit have previously adopted the Supreme Court rules as amended as a local rule effective January 3rd, 1995. Arbitration proceedings shall be governed by the Supreme Court rules and Article 11.

**11.01 CIVIL ACTIONS SUBJECT TO MANDATORY ARBITRATION (S. CT. RULE 86)**

- (a) Mandatory arbitration proceedings are undertaken and conducted in the Sixteenth Judicial Circuit Kane County, pursuant to approval of the Illinois Supreme Court.
- (b) Mandatory arbitration proceedings are a part of the underlying civil action. All rules of practice contained in the Illinois Code of Civil Procedure and Illinois Supreme Court Rules shall apply to these proceedings.
- (c) All civil actions exclusively for money in an amount exceeding \$5,000 but not exceeding \$30,000 exclusive of interest and costs and all small claims actions where a jury has been demanded shall be subject to mandatory arbitration.
- (d) Cases not originally assigned to the Arbitration Calendar may be ordered to arbitration on the motion of either party, by agreement of the parties or by order of court, when it appears to the Court that no claim in the action has a value in excess of \$30,000, irrespective of defenses.
- (e) When a civil action not originally assigned to the Arbitration Calendar is subsequently assigned to the Arbitration Calendar, pursuant to Supreme Court Rule 86(d), the Arbitration Administrator shall promptly assign as arbitration hearing date. The arbitration hearing date shall be not less than 60 days nor more than 180 days from the date of the assignment to the Arbitration Calendar.
- (f) Consistent with Supreme Court Rules, these rules may be amended from time to time by order of a majority of the Circuit Judges for the Sixteenth Judicial Circuit.

**11.02 APPOINTMENT, QUALIFICATION AND COMPENSATION OF ARBITRATORS  
(S. CT. RULE 87)**

- i. Applicants shall be eligible for appointment as arbitration panelists by filing an application form with the Arbitration Administrator certifying that the applicant:
  - (1) has attended an approved mandatory arbitration seminar, and
  - (2) has read and is informed of the rules of the Supreme Court and the Act relating to mandatory arbitration, and
  - (3) is presently licensed to practice law in Illinois, and
  - (4) has engaged in the practice of law in Illinois for a minimum of three years; or is a retired judge, and